

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION
SIXTIETH LEGISLATURE

THIRTIETH LEGISLATIVE DAY
TUESDAY, FEBRUARY 9, 2010

Senate Chamber

President Little called the Senate to order at 11:15 a.m.

Roll call showed all members present except President Pro Tempore Geddes and Senators Andreason, Cameron, Coiner, Lodge, Pearce, and Stegner, absent and excused.

Prayer was offered by Senator Chuck Winder.

The Pledge of Allegiance was led by Elise Knapp, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 8, 2010, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

President Pro Tempore Geddes and Senators Coiner and Lodge were recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

Senator Stegner was recorded present at this order of business.

SJM 103 BY EDUCATION COMMITTEE A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SECRETARY OF EDUCATION OF THE UNITED STATES, TO THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the Senate and the House of Representatives of the State of Idaho assembled in the Second Regular Session of the Sixtieth Idaho Legislature, do hereby respectfully represent that:

WHEREAS, we have witnessed a revolution in promoting, protecting and advancing the educational rights of students with disabilities since Congress originally enacted Public Law 94-142,

The Education for All Handicapped Children Act in 1975, later to be known as the Individuals with Disabilities Education Act or IDEA; and

WHEREAS, IDEA has helped millions of children with special needs receive a quality education; and

WHEREAS, when Congress enacted the predecessor legislation to IDEA in 1975, the federal government was to pay up to forty percent of each state's "excess cost" of educating children with disabilities; and

WHEREAS, appropriations for IDEA have increased over the last decade, however, federal funding for IDEA has never exceeded eighteen percent of the states' cost; and

WHEREAS, in the current economic downturn, with states facing billions of dollars in funding shortfalls, this long-term federal practice of failing to maximize federal IDEA funding is straining the budgets of school districts and states because local communities and states are forced to pay a higher proportion of special education costs; and

WHEREAS, it is time for the federal government to pay its fair share of the costs of IDEA and fulfill its commitment to students with disabilities, their families, and the states and school districts that provide the students with a free and appropriate public education.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixtieth Idaho Legislature, the Senate and the House of Representatives concurring therein, that Congress is urged to pass and the President sign federal legislation to fully fund forty percent of the costs of IDEA, recognizing that some types of disabilities are much more expensive to address than others and that the distribution of children with severe and more expensive disabilities may cluster in some areas that have outstanding medical facilities or exemplary programs for specific disabilities.

BE IT FURTHER RESOLVED that the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the Secretary of Education of the United States, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

[SJM 103](#) was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

February 8, 2010

The JUDICIARY AND RULES Committee reports out [S 1308](#) with the recommendation that it do pass.

DARRINGTON, Chairman

[S 1308](#) was filed for second reading.

February 8, 2010

The JUDICIARY AND RULES Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Howard Glen (J.R.) VanTassel, Jr. to the State Board of Correction, term to expire January 1, 2015.

DARRINGTON, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 8, 2010

The RESOURCES AND ENVIRONMENT Committee reports out [S 1265](#) and [S 1266](#) with the recommendation that they do pass.

SCHROEDER, Chairman

[S 1265](#) and [S 1266](#) were filed for second reading.

February 8, 2010

The HEALTH AND WELFARE Committee reports out [S 1310](#), [S 1313](#), [S 1314](#), and [S 1315](#) with the recommendation that they do pass.

LODGE, Chairman

[S 1310](#), [S 1313](#), [S 1314](#), and [S 1315](#) were filed for second reading.

February 8, 2010

The EDUCATION Committee reports out [S 1306](#) with the recommendation that it do pass.

GOEDDE, Chairman

[S 1306](#) was filed for second reading.

February 9, 2010

The RESOURCES AND ENVIRONMENT Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Jean S. McDevitt to the Park and Recreation Board, term to expire June 30, 2015.

SCHROEDER, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

Senators Andreason, Cameron, and Pearce were recorded present at this order of business.

February 8, 2010

Dear Mr. President:

I transmit herewith [H 451](#), [H 453](#), [H 435](#), [HP 3](#), [H 421](#), [H 422](#), and [H 432](#), which have passed the House.

ALEXANDER, Chief Clerk

[H 451](#), [H 453](#), [H 435](#), [HP 3](#), [H 421](#), [H 422](#), and [H 432](#) were filed for first reading.

February 8, 2010

Dear Mr. President:

I return herewith Enrolled [S 1268](#), which has been signed by the Speaker.

ALEXANDER, Chief Clerk

Enrolled [S 1268](#) was referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1328

BY RESOURCES AND ENVIRONMENT COMMITTEE AN ACT

RELATING TO FISH AND GAME; AMENDING SECTION 36-502, IDAHO CODE, TO PROVIDE FOR THE RELEASE OF CERTAIN CAPTURED WILDLIFE AND TO PROVIDE FOR WRITTEN CONSENT.

S 1329

BY JUDICIARY AND RULES COMMITTEE AN ACT

RELATING TO IDAHO SAFE BOATING ACT; AMENDING SECTION 67-7027, IDAHO CODE, TO REVISE NOTICE AND REPORTING REQUIREMENTS RELATING TO COLLISIONS, ACCIDENTS AND CASUALTIES.

S 1330

BY JUDICIARY AND RULES COMMITTEE AN ACT

RELATING TO ARCHAIC STATUTORY LANGUAGE; AMENDING SECTION 5-334, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 9-205, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 9-340C, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 10-1204, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 15-5-401, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 15-5-407, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 18-6101, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 19-2515A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 20-225, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 20-508, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 32-106, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 33-124, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 33-403A, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-1002, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 33-1007, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 33-1404, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE A CORRECT CITATION; AMENDING SECTION 33-2001, IDAHO CODE, TO ALPHABETIZE TERMS, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 33-4407, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 33-4604, IDAHO CODE, TO REVISE A CITATION, TO DELETE REFERENCE TO AN ACT AND TO REVISE TERMINOLOGY; AMENDING SECTION 34-1108, IDAHO CODE, TO REVISE TERMINOLOGY;

AMENDING SECTION 34-2427, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 38-1601, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-1202, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 39-1204, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-1301, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-1402, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-4602, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-4604, IDAHO CODE, TO ALPHABETIZE TERMS, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 39-4803, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-5008, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 39-5102, IDAHO CODE, TO ALPHABETIZE TERMS AND TO REVISE TERMINOLOGY; AMENDING SECTION 40-1335, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 41-2139, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 41-2203, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 41-3436, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 49-114, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 50-460, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 54-903, IDAHO CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 54-935, IDAHO CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 54-1841, IDAHO CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 54-3401, IDAHO CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 56-101, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-108, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-113, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-203, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 56-218A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-255, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING THE HEADING FOR CHAPTER 7, TITLE 56, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-701, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-701A, IDAHO CODE, TO REVISE TERMINOLOGY AND TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 56-702, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-703, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-707, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-802, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 56-1004A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 63-701, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 66-329, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 66-401, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 66-402, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 66-408, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE;

AMENDING SECTION 67-2319, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 67-6530, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 67-6531, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6532, IDAHO CODE, TO REVISE TERMINOLOGY AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6901, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 67-6902, IDAHO CODE, TO ALPHABETIZE TERMS AND TO REVISE TERMINOLOGY; AMENDING SECTION 67-6903, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 68-1301, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 68-1405, IDAHO CODE, TO REMOVE REDUNDANT LANGUAGE; AMENDING SECTION 71-241, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 72-430, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 72-1316A, IDAHO CODE, TO REVISE TERMINOLOGY; AMENDING SECTION 73-114, IDAHO CODE, TO ALPHABETIZE TERMS, TO DEFINE A TERM AND TO MAKE TECHNICAL CORRECTIONS; AND AMENDING CHAPTER 1, TITLE 73, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 73-114A, IDAHO CODE, TO PROVIDE LEGISLATIVE INTENT ON RESPECTFUL LANGUAGE.

S 1331

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

RELATING TO ANIMALS; AMENDING TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 5, TITLE 25, IDAHO CODE, TO PROVIDE FOR THE IDAHO LIVESTOCK CARE STANDARDS BOARD, TO PROVIDE FOR MEMBERSHIP, TO PROVIDE GUIDELINES FOR CARRYING OUT THE PURPOSE OF THE BOARD, TO PROVIDE FOR THE ESTABLISHMENT OF PROPOSED STANDARDS, TO PROVIDE THAT THE IDAHO STATE DEPARTMENT OF AGRICULTURE MAY PROMULGATE CERTAIN RULES, TO PROVIDE FOR TERMS OF MEMBERSHIP, TO PROVIDE THAT MEMBERS SHALL SERVE WITHOUT HONORARIUM, COMPENSATION OR REIMBURSEMENT OF ANY KIND AND TO PROVIDE FOR MEETINGS OF THE BOARD; AND DECLARING AN EMERGENCY.

S 1332

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

RELATING TO PESTICIDES AND CHEMIGATION; AMENDING SECTION 22-3404, IDAHO CODE, TO REVISE CERTAIN EXEMPTIONS AND TO MAKE TECHNICAL CORRECTIONS.

S 1333

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

RELATING TO ANIMALS; AMENDING CHAPTER 35, TITLE 25, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 25-3514B, IDAHO CODE, TO AUTHORIZE THE REGULATION OF THE HUMANE CAPTURE, STERILIZATION AND RELEASE OF FREE-ROAMING CATS BY COUNTIES AND MUNICIPALITIES, TO PROVIDE A CONDITION AND TO PROVIDE FOR THE APPLICATION OF CERTAIN LAWS AND RULES.

[S 1328](#), [S 1329](#), [S 1330](#), [S 1331](#), [S 1332](#), and [S 1333](#) were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

[H 451](#) and [H 453](#), by Environment, Energy, and Technology Committee, were introduced, read the first time at length, and referred to the Health and Welfare Committee.

[H 435](#), by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

[HP 3](#), by State Affairs Committee, was introduced, read at length, and referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

[H 421](#) and [H 422](#), by Judiciary, Rules, and Administration Committee, were introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

[H 432](#), by Business Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

[H 380](#), [H 381](#), [H 384](#), and [H 385](#), by Revenue and Taxation Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

[S 1267](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Darrington arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 34.

NAYS—Geddes. Total - 1.

Total - 35.

Whereupon the President declared [S 1267](#) passed, title was approved, and the bill ordered transmitted to the House.

[SCR 113](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McGee arose as sponsor of the resolution and opened the debate. The question being, "Shall the resolution be adopted?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 35.

Whereupon the President declared [SCR 113](#) adopted, title was approved, and the resolution ordered transmitted to the House.

[S 1287](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Corder arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 34.

NAYS—LeFavour. Total - 1.

Total - 35.

Whereupon the President declared [S 1287](#) passed, title was approved, and the bill ordered transmitted to the House.

[H 418](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Hammond arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Coiner, Corder, Darrington, Davis, Fulcher, Geddes, Goedde, Hammond, Heinrich, Hill, Jorgenson, Kelly, Keough, LeFavour, Lodge, Malepeai, McGee, McKague, McKenzie, Mortimer, Pearce, Schroeder, Siddoway, Smyser, Stegner, Stennett (Stennett), Werk, Winder. Total - 35.

Whereupon the President declared [H 418](#) passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Kelly, by voice vote, the Senate adjourned at 12:06 p.m. until the hour of 11:15 a.m., Wednesday, February 10, 2010.

BRAD LITTLE, President

Attest: JEANNINE WOOD, Secretary